



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,329	12/21/2000	Ralph K. Friend	12435-01/JWE	1293

7590 08/13/2004

STRADLING YOCCA CARLSON & RAUTH  
IP Department  
P. O. Box 7680  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660-6441

EXAMINER

HAMILTON, LALITA M

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/747,329	FRIEND ET AL.
	Examiner Lalita M Hamilton	Art Unit 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-23 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, *or* composition of matter, *or* any new and useful improvement thereof" (emphasis added).

Claims 1-23 are rejected under 35 U.S.C. § 101 because; the claimed invention is directed to a non-statutory subject matter. Specifically the method claims as presented do not claim a technological basis in the pre-amble and the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See *Ex parte Bowman*, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) - used only for content and reasoning since not precedential].

In order to over come the 101 rejection above, the following preamble is suggested: "A computer implemented method for ---", or something similar. Also, in the body of the claim include structural / functional interrelationship which can only be computer implemented.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 and 16-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Reep (6,327,569).

Reep discloses a system and corresponding method for real-time linkage between harvest environment and marketplace comprising establishing a communication network, the network defining a community of buyers and sellers of agriculture related items, subdividing the agriculture related market place into a plurality of top-level markets, each top-level market defining a particular categorical hierarchy of items comprising the totality of the agriculture related market place (fig.3-all and col.9, line 10 to col.10, line 35), receiving a first multiplicity of offers to sell, over the communication network, from a plurality of selling entities, each offer to sell including item transaction data organized in accordance with a corresponding one of the plurality of top-level markets, receiving a second multiplicity of offers to buy, over the communication network, from a plurality of buying entities, each offer to buy including item transaction data organized in accordance with a corresponding one of the plurality of top-level markets, displaying said first multiplicity of offers to sell and second multiplicity of offers

to buy to the community of buyers and sellers over the communication network, and executing at least one transaction between a buyer and a seller with respect to a particular item, by a buyer's making an electronic indication on a respective posted offer to sell for that particular item (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); executing at least one transaction between a buyer and a seller with respect to a particular item by a seller's making an electronic indication on a respective posted offer to buy for that particular item (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); establishing a database, the database structured in accordance with a categorical hierarchical structure, the top-level categories of the database corresponding to the top-level market subdivisions comprising the agriculture related marketplace and searching the database for offers to sell or offers to buy within a particular top-level market subdivision (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); organizing each of the top-level market subdivisions into corresponding multiplicities of item categories and searching the database for offers to sell or offers to buy within particular ones of the item categories (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); top-level subdivisions are ones selected from the group consisting of commodities, products, services and transportation, and wherein the item categories correspond to rational groupings of items within each such top-level subdivision (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); associating a participating entity with a corresponding one of a plurality of entity types, wherein each entity type is associated with a corresponding top-level market subdivision and presenting item transaction data to a participating entity in the form of a data record, the data record containing item transaction indicia specific to

the participating entity's type (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); entity types are the ones selected from the group consisting of commodity producers/brokers, product vendors, service providers and transportation contractors (col.1, lines 5-15 and col.9, line 10 to col.10, line 35-specific to each market); establishing an agricultural trading platform, including a communication network linking a community of buyers and sellers of agricultural items, establishing a database, the database structured in accordance with a categorical hierarchical structure, the top-level categories of the database corresponding to top-level market subdivisions comprising the agriculture related marketplace, receiving a multiplicity of transaction notices from a corresponding multiplicity of participating entities over the communication network, each transaction notice including item transaction indices data organized in accordance with a corresponding one of the plurality of top-level markets, searching the database for transaction notices in accordance with a selected category of the categorical hierarchical structure displaying transaction notices that satisfied the selected search category, accessing selected ones of the displayed transaction notices, so as to display a detail of the corresponding item transaction indices data, and responding to an accessed transaction notice so as to complete a transaction (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); establishing an agricultural trading platform, including a communication network linking a community of participating buyers and sellers of agricultural items, establishing a database, the database structured in accordance with a categorical hierarchical structure, the top-level categories of the database corresponding to top-level market subdivisions comprising the agriculture related

marketplace, the database containing a plurality of transaction offer notices for agricultural items organized in accordance with a corresponding one of the plurality of top-level markets, establishing a set of blank transaction offer notices in the form of a data record defining a transaction's parameters, each participating entity providing appropriate transaction parameters in the data record, receiving completed transaction offer notices and storing said notices in the database, searching the database for transaction notices in accordance with a query corresponding to at least one transaction parameter, displaying transaction notices that satisfy the selected search query, accessing selected ones of the displayed transaction notices, so as to display a detail of the corresponding item transaction indices data and responding to an accessed transaction notice so as to complete a transaction (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); the data record of the transaction offer notices is structured to contain transaction parameters specific to each separate one of the top-level market subdivisions (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); associating a participating entity with a corresponding one of a plurality of entity types, wherein each entity type is associated with a corresponding top-level market subdivision and presenting a participating entity with blank transaction notices containing transaction parameters corresponding to their entity type (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); transaction parameters include an item location indication and the searching step comprises searching for transactions for particular items within a specified geographical radius of a search entity (col.9, lines 10-30); the transaction parameters include a top-level market indication and the searching step comprises

searching for transactions for particular items within a specified top level market (col.1, lines 5-15 and col.9, line 10 to col.10, line 35); the transaction parameters include a top-level market indication, an item category indication and an item location indication and wherein the searching step comprises searching for transactions for particular items within a specified top level market, an item category and within a specified geographical radius of a search entity (col.9, lines 10-30-GPS); and an agricultural trading platform, including a communication network linking a community of participating buyers and sellers of agricultural items, the trading platform including a server system coupled to user access devices over the communication network, a database, the database structured in accordance with a categorical hierarchical structure, the top-level categories of the database corresponding to top-level market subdivisions comprising the agriculture related marketplace, the database containing a plurality of transaction offer notices for agricultural items organized in accordance with a corresponding one of the plurality of top-level markets, a set of blank transaction offer notices in the form of a data record defining a transaction's parameters, each participating entity providing appropriate transaction parameters in the data record, a plurality of completed transaction offer notices stored in the database, a search engine, hosted by the server system, the search engine searching the database for transaction notices in accordance with a query corresponding to at least one transaction parameter and a negotiation engine, hosted by the server system, the negotiation engine facilitating an electronic transfer of a modified transaction offer notice between an originating party and a negotiating party (col.1, lines 5-15 and col.9, line 10 to col.10, line 35).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-15 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reep in view of Fritsch (US 2202/0023039).

Reep discloses the invention substantially as claimed; however, Reep does not disclose electronically modifying at least one item transaction index by a negotiating entity and submitting the modified transaction notice to a participating entity that originated the transaction notice; repeating the electronically modifying and submitting steps between an originating entity and the negotiating entity, in alternating fashion until the item transaction indices of the transaction notice are acceptable to both parties, maintaining a historical record of each modification, by either party, in the database, and generating an electronic transaction consummation record containing final item transaction indices agreed upon by both parties; forwarding the transaction consummation record to a third party financial institution, wherein the agreed item transaction indices define the transaction conditions, the satisfaction of which triggers a transfer of funds; a posting engine, the posting engine presenting blank transaction offer notices to a participating entity, the posting engine storing completed transaction offer notices in the database for access by the search engine and a management engine, coupled to the database, the management engine organizing and displaying a history of

transaction notices originated by and transactions completed by a corresponding participating entity; or the search, negotiation, and posting engines interact with a participating entity over a set of user specific presentation screens, the presentation screens accessible by a user through a browser application. Fritsch teaches a computerized system and corresponding method for an online virtual auction comprising electronically modifying at least one item transaction index by a negotiating entity and submitting the modified transaction notice to a participating entity that originated the transaction notice (p.4, 33 and p.12, 1); repeating the electronically modifying and submitting steps between an originating entity and the negotiating entity, in alternating fashion until the item transaction indices of the transaction notice are acceptable to both parties, maintaining a historical record of each modification, by either party, in the database, and generating an electronic transaction consummation record containing final item transaction indices agreed upon by both parties (p.4, 33 and p.12, 1); forwarding the transaction consummation record to a third party financial institution, wherein the agreed item transaction indices define the transaction conditions, the satisfaction of which triggers a transfer of funds (well known and practiced); a posting engine, the posting engine presenting blank transaction offer notices to a participating entity, the posting engine storing completed transaction offer notices in the database for access by the search engine and a management engine, coupled to the database, the management engine organizing and displaying a history of transaction notices originated by and transactions completed by a corresponding participating entity (p.2, 19-23); and the search, negotiation, and posting engines interact with a participating

entity over a set of user specific presentation screens, the presentation screens accessible by a user through a browser application (p.2, 19-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate electronically modifying at least one item transaction index by a negotiating entity and submitting the modified transaction notice to a participating entity that originated the transaction notice; repeating the electronically modifying and submitting steps between an originating entity and the negotiating entity, in alternating fashion until the item transaction indices of the transaction notice are acceptable to both parties, maintaining a historical record of each modification, by either party, in the database, and generating an electronic transaction consummation record containing final item transaction indices agreed upon by both parties; forwarding the transaction consummation record to a third party financial institution, wherein the agreed item transaction indices define the transaction conditions, the satisfaction of which triggers a transfer of funds; a posting engine, the posting engine presenting blank transaction offer notices to a participating entity, the posting engine storing completed transaction offer notices in the database for access by the search engine and a management engine, coupled to the database, the management engine organizing and displaying a history of transaction notices originated by and transactions completed by a corresponding participating entity; or the search, negotiation, and posting engines interact with a participating entity over a set of user specific presentation screens, the presentation screens accessible by a user through a browser application, as taught by Fritsch into the invention disclosed by Reep, to allow for favorable negotiations and to allow the

users to view history of transactions to ensure that they are getting the best deal possible.

***Provisional Application Listed on PTO-892 form***

If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LMH